

My name is Thomas A. Ellestad. I am submitting this AFFIDAVIT freely and voluntarily, without any threats, inducements or coercion, to Rick Parks. Mr. Parks has identified himself to me as an investigator for the Government Accountability Project (GAP). I am providing this affidavit to document my concerns regarding the United States Department of Agriculture's (USDA) Bovine Spongiform Encephalopathy (BSE) Surveillance Sampling Program and the dangers this program presents to the beef industry in general and the American people. BSE is more commonly known to the general public as "Mad Cow Disease." I have requested and Mr. Parks has assured me that GAP will maintain my identity confidentially and will release information traceable to me only with my permission. I have authorized Mr. Parks and GAP to provide this information to congressional oversight committees, to ensure an adequate dissemination of this document in hopes of resolving the concerns I freely express regarding USDA BSE sampling policy and other USDA policies and USDA and FDA actions.

I am one of the principal co-managers/operators of Vern's Moses Lake Meats Inc., a USDA inspected and certified "very small" red meat processing plant as categorized under current USDA Food Safety and Inspection Service (FSIS) regulations. The business has been in my family since 1970 when my father, Vernon, first acquired it. My brother, Larry Ellestad, the other principal co-manager/operator, and I have operated the plant since 1988. We employ on average ten employees. We are located in Moses Lake Washington, a small town in the eastern center part of our state.

Since the first case of BSE was detected in a Holstein cow slaughtered in our facility on December 9, 2003, my family and I have prayed for guidance and strength and have sought advice from the USDA and, in the absence of their knowledge, from other sources including specialists in England to deal with the situation as it developed. As a family we were determined to cooperate in every way possible with the USDA to stop and contain this disease. We have remained largely silent, as we have witnessed our lives thrown into turmoil, and our family business and professional reputations brought into question. We were confident the USDA would take the actions necessary to prevent this disease from spreading and would, eventually, ensure the industry and the American public was informed that we and other businesses involved were innocent participants in the Mad Cow events of December 2003. We were wrong on both counts.

A. THE BSE-POSITIVE COW WAS NOT A "DOWNER"

There has been much confusion in the press and in the understanding of some of the regulatory people investigating the BSE situation about whether the BSE-positive animal slaughtered at our facility on December 9, 2003 was a "downer." USDA has repeatedly said that it was and that its brain was sampled under USDA's Surveillance sampling program for that reason. Some have suggested that the animal was non-ambulatory when it was slaughtered at our facility. Others have gone further and reported that the animal went down at the Sunny Dene Dairy farm immediately after giving birth in late November, was non-ambulatory since then, and then was brought to our plant because we are a "downer" plant. None of these is the case.

Our plant implemented a humane handling and hauling policy in February 2003 specifying that we would not accept any animals for slaughter that had not walked onto the hauling trailer. We have maintained the policy ever since; therefore the animal would not have been delivered to us if she had been non-ambulatory since calving. (It is surprising and disappointing that USDA has not publicly clarified this since they have been aware of our policy since its inception). We are also certain she was ambulatory at our facility because there are eyewitnesses that saw her standing and walking at Vern's on the day she was slaughtered.

It is true that Vern's submitted a sample of her brain for the USDA Animal and Plant Health Inspection Service's (APHIS's) BSE Surveillance Sampling Program, but not because she was a downer. We had been sending brain samples in to USDA/APHIS's sampling program for months, many from unquestionably ambulatory animals. Not only was USDA fully aware of this practice but also it was proper and in keeping with the terms of our contract with the government.

Under Vern's Acceptance Criteria and Contractual Relationships the Cow Could Not Have Been a Downer When It Left Sunny Dene's Dairy

1. In today's large-scale dairy operations, the productive life of any given dairy cow is approximately seven years. If one ignores the potential for broken bones, birthing related paralysis or other health related conditions that will diminish the animal's ability to provide an adequate supply of milk daily, the typical animal's milk production will start to diminish as the animal approaches the age of seven. At this point, the return on the dairy farmer's investment will start to decrease, and the dairy farmer will sell the animal to a slaughterhouse. It is an economic impossibility for the dairy farmer to "put the animal out to pasture" and allow it to continue to live out its natural life. Cows, like people, have accidents and break limbs or, develop illnesses and diseases that will allow the animal to live but will no longer be productive. The dairy farmer will also sell these animals to a slaughterhouse. It sounds cruel and unappreciative, but the only other options available to the dairy farmer are to kill the cow and either bury it where it is found or pay a rendering operation to haul the animal away.

2. "Downers", as industry and the USDA use the term, are those animals that are non-ambulatory, those that cannot stand and walk. This is a very broad category and may include animals that are "suspect," because they possess a health condition that prevents them from walking, as well as animals that cannot walk because of injuries such as broken limbs. It is necessary to use mechanical means in order to load animals in this condition onto trailers in order to transport them. Prior to December 31, 2003, animals satisfying this criteria could still be slaughtered under USDA inspection and were allowed to enter the food chain for human consumption as long as the FSIS Veterinary Medical Officer (VMO) performed a thorough inspection of the animal, determined that it could be used for human food, and fully documented the disposition of the animal. Although USDA allowed it, not all businesses allowed it at their establishments.

There are many other health related conditions that result only in an animal being reluctant to rise to its feet and walk. In some instances the animal may possess nothing more than sore feet from spending long hours on concrete floors or have suffered nerve damage during calving. Animals such as these may be reluctant to stand because of the pain they experience or, in the event of nerve damage during birthing, walk in a wobbly fashion.

Animals possessing these limitations are not referred to as "downers" by USDA or by industry because they are still able to walk.

3. Prior to February 2003, Vern's utilized much the same criteria as the USDA and allowed non-ambulatory animals to be brought to our plant. However, one of our main customers was involved in a dispute with special interest groups regarding inhumane kill practices during 2002. At the time, this processing plant was participating in the BSE Surveillance Sampling Program for USDA/APHIS and was operating under USDA's authorities. These groups discovered the plant was handling the "downer cattle" and publicly attacked the processing plant. As a result of the much-publicized controversy, the processing plant ceased their participation in the BSE Surveillance Sampling Program and adopted a "no-downer" policy in late 2002. The processing plant also mandated a similar requirement for all of their suppliers. We agreed with this processor's policy requirement and entered into a contractual agreement which incorporated it. We also adopted this policy of "no downers." along with our existing policy guaranteeing no inhumane handling and slaughter practices at our facility. Accordingly, our policy regarding inhumane handling and "downers" became more stringent than the USDA's. We required each livestock hauler and each dairy, where applicable, to supply us with a written declaration stating they would not use any mechanical means to load an animal onto their trucks—thus certifying that the animals were ambulatory when picked up. Even though we may not have possessed the legal authority to impose such requirements off our premises, we were attempting a good faith effort to impose our humane handling requirements by contractual agreements with those individuals doing business with us. By insisting that all animals be able to walk onto the livestock hauler's trailer when they are picked up, our intent was to create a policy which expanded the scope of our humane handling policy to the animals we were to receive as soon as that animal began its journey to our facility. We do not mandate each livestock hauler or dairy to provide such a declaration with each delivery, only when the respective hauler or dairy attempts to deliver animals to Vern's for the first time.

Once animals are delivered to our plant, the majority of them enter our system by walking up a steep ramp to the second elevation above ground level where we have our "knocking box." This is where they are humanely stunned and then enter our processing system.

However, some animals are unfortunately injured in transit and are unable to stand when they arrive at our plant. This is a problem that occurs throughout the industry and throughout the country. Any animal delivered to Vern's possessing injured feet, broken legs, or any other condition limiting mobility or which has suffered other injuries in transit is not forced to make this steep climb. Such animals are walked off the delivery trailer to an area beneath a winch, stunned in accordance with industry accepted humane handling practices, connected to the winch and raised to door in the back of our facility that allows entry to the processing floor immediately adjacent to the "knocking box." We refer to such animals as "back door" animals because they enter through the back door into our processing plant rather than entering by way of the ramp and the "knocking box" to receive the stunning blow.

We consider our "back door" method of handling reluctant or injured animals to be more humane than forcing that injured or reluctant animal to walk up the incline to the "knocking box." Animals such as buffaloes and animals too wild and skittish to handle are handled identically to the "back door" animals at our plant. On occasions, ranchers have requested that we not force their animal to walk up the ramp. We treat these animals the same

as buffaloes. I have attached the statement signed by one of the livestock haulers that routinely delivers to our facility, Randy Hull, as Exhibit 1 to this statement.

Finally, there were instances when animals arrive which are extremely reluctant to stand and walk off the trailer. This may be because they were in pain or for other reasons. If our regular livestock hauler with whom we have a signed agreement told me the animal walked onto the truck when it was loaded, we would have attempted, in instances such as when the animal was clearly able to walk without excessive pain, to pull on the animal's tail once to get it to stand. There have been limited occasions when we would try using the cattle prod, but in these instances we would have restricted the use of the prod to one attempt to get the animal to stand, which was allowed under USDA regulations. After that, we would not have forced the animal to walk off the truck. The VMO would typically perform the ante-mortem inspection while the animal was lying down and after he inspected and accepted the animal, we would stun it there on the trailer and then take it in through the back door.

There have also been incidents where an animal has arrived at our facility in such poor condition that we do not feel it should be used and we do not want to sell it to our customers for human food, even though in some cases, the animal would possibly have passed USDA inspection. Though we would have the option in these cases of refusing it and ordering that it be hauled back to its origin, we consider it more humane to kill the animal in accordance with our humane slaughter practices on the trailer and ship it directly to the rendering plant without taking the animal into our facility. Also, this makes sure that the animal does not then get transported to a non-inspected facility and enter the food chain by sidestepping USDA's food safety regulations.

4. Our policy of "no downers" has been received with skepticism by visiting USDA relief VMO's (USDA personnel filling in for the VMO who usually was assigned to our plant) and, lately, by the news media and others. Please note that USDA has never had a policy prohibiting mechanical loading, which may become inhumane because it allows pushing and dragging, which our policy eliminated. I have learned to trust the livestock haulers we routinely deal with. One instance occurred when a relief VMO challenged the driver's statement that the cattle in question walked onto his trailer. The incident occurred in mid-June 2003. The relief vet was openly accusatory to the point of harassment of the driver. To prove his statement the driver, Rick Bates, forced the animals to their feet and they walked off his trailer. This incident angered me, not only for the insult of a man's integrity, but also because of the relief vet's callous disregard for the animals. I documented the incident and held a meeting the next day on which our regularly assigned VMO was present. He agreed that this would not happen again. To verify the approximate date this incident occurred, I attached to my hand-written memo five documents the relief vet issued for animals he condemned during the his assignment at our plant. My reasoning was that I would supply my memo and the documents to the next USDA person challenging the livestock haulers word. My memo for the file and the associated documents are attached as Exhibit 2.

Another incident occurred when I was the culprit doubting the livestock hauler's word. The driver arrived with an animal that was unable to stand. The driver informed me that the animal walked onto his trailer and stated that it must have been injured in transit. I told the driver that I did not believe him but that I was going to process the animal; if I determined upon slaughter that the animal had a pre-existing injury that would have prevented it from walking onto the trailer, I would never deal with the livestock hauler again. The hauler told me to do what I felt I had to do. Upon slaughter I could not determine any condition that indicated the

animal possessed a condition that would have prevented the animal from walking onto the trailer. I ordered my staff and requested the USDA staff to witness my personal apology to the livestock hauler for doubting his word. As I stated previously, I have learned to trust the word of the livestock haulers we routinely deal with.

Other Evidence That the Cow Was Not a Downer When It Left the Dairy

5. The demonstrated integrity of our livestock haulers in honoring our policy and written agreements, by itself, would be enough for me to conclude that the cow in question walked onto the hauling trailer that day at the Sunny Dene Dairy and could not have been non-ambulatory since calving. In addition, however, the hauler who delivered the cow on that day, Randy Hull, has confirmed this in writing. I am submitting his Declaration as Exhibit 3.

6. Finally, conversations with two agricultural officials connected to USDA's investigation, further confirm that the cow was not non-ambulatory since calving. On January 19, 2004, Mr. Parks, my brother Larry, my son Glen and I met at our facility to review the results of Mr. Parks' investigation. We received an unexpected, unofficial visit from one of the officials involved in the USDA BSE Surveillance Sampling Program. During the course of the visit, the official informed all present that he had been present at meetings where the Sunny Dene owner advised the USDA and other government officials that the positive BSE cow had given birth on November 29 and that the cow went through the milking shed for 3 or 4 days, which would have required that she be walking – there would be no other way for her to go through the milking shed.

Apparently, due to problems during birthing her ability to walk was compromised and at some point, the herdsman noticed that she slipped in leaving the milking parlor. It is common for cows with such birthing injuries to have difficulties keeping their back legs together when they walk and therefore, especially when they are walking on the concrete floors of milking sheds, they become vulnerable to a more serious injury called "splitting." When a cow splits herself her legs splay out underneath her and she may suffer other injuries such as a broken pelvis or broken hips. The official told us that due to this vulnerability, Sunny Dene personnel decided that she was not a good candidate to keep for milking and sent her to slaughter. The official also told us that the two herdsman, and I think possibly also the owner, had confirmed to the government officials that she was an otherwise healthy cow.

Our visitor continued to state that two herdsman that worked for Sunny Dene Dairy had also confirmed to the USDA and other government officials that the BSE positive Holstein walked onto the trailer when she was picked up the day of December 9, 2003. I had introduced Mr. Parks to our visitor and informed our visitor that Mr. Parks worked for the Government Accountability Project and the purpose of his visit. Mr. Parks' presence did not appear to bother our visitor at all. He informed us that, to his knowledge, the information he had just shared with us was public knowledge.

After our visitor left, we discussed the information we had just learned. The information disturbed both Larry and me because, to our knowledge, the USDA had not released this information publicly. Every news report we had heard or read informed the public that the cow in question had been a downer at the dairy. In an effort to confirm our visitors' information, I called another official that had been involved in the BSE Surveillance Sampling Program. I advised the official of the information I had just been made aware of and asked if it

were in fact true. The official confirmed to me that the information was in fact true. I thanked the official and ended the telephone call.

This information deeply disturbed my brother and me. Our business had been devastated; our reputation had been maligned and the USDA knew the truth but had chosen to not make the truth about the BSE cow not being a downer available to the public. As we discussed this information between ourselves, we arrived at the conclusion that this information had to be made publicly available.

As will be explained further in this affidavit, the cow was tested because it only went into the back door of the plant and not because it was downer. The back door entry for some cattle at the plant was a method of handling reluctant animals or animals injured during transit to the plant. We did routinely collect brain stem samples from some cattle that were fully ambulatory and not USDA suspects.

The BSE-positive Cow Was Ambulatory and Showed No Signs of Any Illness at Vern's Just Prior to Slaughter

7. Randy Hull delivered a trailer load of eleven cattle to our facility on December 9, 2003. It was the second trailer-load of animals slaughtered at our plant that day. Of the eleven, three of the cattle came from the Sunny Dene Dairy, including the Holstein that eventually tested positive for BSE. A Vern's employee, our assigned FSIS VMO and I were outside to receive the animals. Of the eleven animals, four were lying down at the gate end of the trailer. I recall the animals and events of this day, specifically, because what happened next was a bit unusual for the typical inspection procedures at our plant.

Only a VMO is permitted to do ante-mortem and post-mortem inspection on suspect animals (whereas federal inspectors, rather than VMO's, may perform inspection on animals that are not suspects.) In the interest of helping the veterinarian leave our facility and proceed to his duties at other plants, we would often cooperate to help him identify any potential suspects first, so that we could slaughter them and enable him to complete his post mortem inspections on these animals sooner. The federal inspector at our plant could then complete post-mortem inspection on non-suspect animals after that.

Typically, if there were many animals in a trailer, we would remove the animals from the front of the trailer and take them to holding pens as the VMO inspected them, to provide quicker access to those in the back of the trailer. Then all suspects from the group would be processed first so that the VMO could complete his required inspections and leave if he needed to.

In keeping with this practice, on December 9th, I offered to walk the four animals off the trailer as soon as they were inspected by the VMO. Randy confirmed that the four animals could be walked off the trailer with no undue suffering. Randy is really good at determining which animals can easily be walked off the trailer humanely and has rarely made a mistake in judgment about this.

What was unusual was that the VMO declined, stating he was there for the day anyway, thereby indicating that he would inspect the animals in turn, as we processed them. A relief inspector was covering that day for the FSIS inspector who was usually at our plant and the VMO sometimes stayed longer if our usual inspector was not at the plant; perhaps this is why he decided to stay at the plant. The VMO then inspected the four recumbent animals, noted the conditions of each on his paperwork, and went back into the plant. It is my recollection, and

our slaughter records (see below) support that two of the Sunny Dene cattle were among the four lying down. So we walked them and processed them one at a time because the less you move these animals the more humane it is.

8. Randy Hull confirmed he remembers the four animals that were lying down upon arrival and that they were all capable of walking off the trailer. (See Hull Declaration, Exhibit 3). It is my recollection that a former employee, whom we since had to lay off as part of our reduced operations resulting from the publicity about the positive BSE cow, was present for the handling of two of the four animals and I was present for the handling of the other two. I witnessed two of the four animals getting to their feet and walking off the trailer. The former employee has confirmed to the media on several occasions that the BSE animal was not a "downer" and that he remembers her distinctly walking at the plant before she was killed. Although my recollection is that I did kill the cow, now that it is two months later, I cannot say with certainty which of the two of us killed this individual cow. I am certain that I saw all four cows in question stand and saw two of them walk off the trailer. It is our company practice to have the Kill Floor Foreman monitor the unloading of cattle at our plant and, on this day, I was the Acting Kill Floor Foreman. If for any reason I cannot be in attendance for the unloading of the animals it is our standard practice to ensure that a trusted employee observes the unloading of the cattle and to ensure that humane handling practices are being carried out.

Our kill floor records support these recollections

9. On December 9, 2003, we slaughtered twenty-four (24) cattle and three (3) lambs. Our records reflect that the animals delivered by Randy Hull included the three Holsteins from Sunny Dene Dairy that were slaughtered in the second grouping of the day, commencing with animal # 9. The Sunny Dene Holstein that was positive for BSE had been among the four lying down upon arrival that all eventually stood to their feet. Our kill records reflect the animal was the fourth animal we processed from that trailer load on that day. We handled each animal individually, in order, as they came off the trailer and, as is our standard practice, noted the sequence in our kill records.

10. The kill sheet assigns each animal a Vern's identification number and notes the name of the owner of each animal, ear tag numbers and other identification which may be present on the cow. The owners' names and identification numbers are always written or verified by myself or the kill floor foreman because this is such an important task that we do not leave it to other employees. It is important for two reasons. First, we take blood samples in accordance with other state and federal programs and these must be traceable to the herd of origin. Second, the identifications are also the way we make records of the veterinary dispositions of the animals and, as a related matter, how much each owner should be paid for the animals they send us. I have attached our December 9, 2003 Kill Floor record as Exhibit 4. The BSE positive Holstein appears on line number 12. A copy of the cash paid receipt showing the number and origin of animals delivered by Randy Hull, including the three cows for the Sunny Dene Dairy, and the amount paid is attached as Exhibit 6 to this statement.

11. Each animal delivered on the second truckload that day is identified with the initials "BD" on the Kill Sheet because it was a "back door" animal and we sampled each for BSE as I will explain later in this affidavit.

12. A review of Exhibit 4 also reveals that the BSE animal yielded 581 pounds dressed. This refers to salable carcass meat that has passed USDA inspection and is then stored in our cooler. 581 pounds is well within the weight range of other average cows of this age and type and demonstrates that the cow was not in poor condition.

Did the VMO's actions also suggest that he did not consider her a sick downer animal?

13. The Sunny Dene Holstein, Tag # 6810 was inspected and passed by the USDA VMO and released unconditionally to enter the food supply. It is my recollection that when the VMO showed me his records he had noted the following remarks for the Holstein that eventually tested positive for BSE: " Non-ambulatory, upright on her sternum, her head was up, her eyes were bright."

14. As I mentioned above, it is not unusual for the VMO to perform ante-mortem inspection on ambulatory animals while they are in a recumbent position. Out of respect for our humane handling policy, and when feasible, he has not required us to force animals to their feet to prove that they are ambulatory. By doing this he must make a note that they are not ambulatory in order to follow USDA regulations, but it is more important for us to maintain humane handling and reduce the animals' stress than to have USDA not make this notation. As mentioned above, on this particular day, we did not walk all four recumbent animals, including the BSE positive cow, off the trailer immediately, because the VMO was not under schedule constraints requiring him to leave our facility at a specified time.

On this same day, there was another animal that had been lying down upon arrival and was so noted on the VMO's records. It was preparing to walk off the trailer when the VMO returned to the delivery area and he witnessed the animal standing and walking from the trailer. He made a correction to his records to reflect that the animal he had previously seen lying down was in fact ambulatory. I know this because he later showed me his records.

15. Frequently, when an animal is sick, the owner will inject the animal with antibiotics in an effort to restore the animal to health. USDA procedures provide for the VMO to use their discretion in testing any sick or "suspect" animal for anti-biotic residues when the animal is slaughtered, because these animals are not allowed in the food supply.

There were no entries on the form for any animal tested on December 9, 2003 to my recollection. I've worked with our VMO for approximately four years and in that time, I've never felt that he failed to perform his duties when consumer safety was at stake. Without doubt, I feel he tests every animal that he thinks poses any consumer concern. It has been my experience, that injured animals are much less likely to test positive for the presence of antibiotics than sick animals, however, only the VMO can explain why he didn't perform antibiotic tests on this animal. Any reason provided by anyone else would only be speculation.

16. I do not know if the Holstein testing positive for BSE did or did not receive a "Suspect" tag from our VMO. I know it was not retained or condemned, and it was passed without restrictions. I know that if the VMO had any doubts whatsoever regarding the acceptability of

this animal to enter commerce, he would not have passed it unconditionally. Although we certainly do not agree on some things, we do believe that the VMO is one of the best pathologists the USDA has. I hold this opinion not only as a plant owner/operator but also as a consumer.

B. USDA Solicits Vern's Moses Lake Meats to Sample for BSE

19. In approximately June 2003, possibly earlier, an official VMO with USDA/APHIS's Veterinary Services and another official from the Washington State Department of Agriculture approached Vern's to perform brain stem sampling for the USDA/APHIS BSE Surveillance Program. The contract offered to Vern's promised a fee of ten-dollars (\$10.00) for each sample taken for a maximum of one thousand (1000) samples performed over the course of a calendar year. Although I was seriously tempted, I refused the contract because it specified the sampling to be performed on all "downer" cattle and explained to them our humane handling policy. As I understood the contract, it meant that every downer would be tested but no ambulatory cattle would be tested. In accordance with our "no downer" policy, I advised the two VMO's that Vern's did not accept "downer" cattle and therefore could not be a party to the contract. This was a hard decision for me. Like most small meat processing facilities, \$10,000.00 extra money per year could mean the difference between being profitable and not.

20. Over a period of several months, the VMO's returned several times and offered and solicited our involvement in the BSE Surveillance Sampling program. We declined each approach, because we did not accept "downers." The USDA personnel we worked with repeatedly explained that they were having real difficulty getting plants to sample and that they were having difficulty getting the number of brain stem samples that they were expected to get. USDA was so needful of getting samples, that they backed away from the requirement that tested animals be downers and eventually, a modified contract was offered to us.

The wording had been changed to read: "In accordance with USDA, APHIS, Veterinary Services' BSE Surveillance Program, Vern's Meats will be reimbursed cattle carcass disposal fees. For each animal from which a BSE Surveillance sample is collected, Vern's will be reimbursed \$10.00. The total number of animal disposals paid under this purchase order will not exceed 1000 during the time period October 1, 2003 thru September 30 2004." I have attached the first page of the purchase order that includes the contract obligations as Exhibit 6.

21. The services required consisted of taking a tablespoon-sized sample of a selected cow's brain stem area. Since the proposed arrangement with the USDA/APHIS did not specify any particular sampling criteria for sampling the cattle, I proposed to the VMO's, and it was agreed upon readily, that Vern's would perform the samples only on all "Back Door" animals. We agreed that we would note the initials "BD" on our Daily Kill Sheets for each animal sampled.

22. I additionally requested that, in the event of any positive samples, the results would be maintained confidentially and would not reflect against our plant. Both VMO's agreed to this

condition. I specifically asked if we should retain the carcasses until the sample results returned from the lab. On two separate occasions they told us we should not. My son, Glen, was present to hear the government policy on one occasion. If I had signed the USDA's first proposal for testing downers only, we would not have felt that it was in keeping with our contract to test the cow that came to my plant on Dec. 9th because our staff did see that she was ambulatory.

Training for the BSE Surveillance Program

23. The training we received from the USDA was conducted at our facility over two separate days. Approximately one hour of training was provided each day. The USDA provided all the equipment required of a participant in the BSE Surveillance program: plastic bags, a pair of tweezers and a ground down tablespoon made in China. We found that these tools did work very adequately.

24. The training consisted of a "see one—do one" approach with the trainer supervising our sampling technique. After the initial training, USDA/APHIS was not required to witness our sampling again. The USDA/APHIS trainer did not provide any training materials. No references were made to any written procedures, Code of Federal Regulation requirements, or any other controls. My son, Glen, and I were the two trainees and were not provided with a copy of the BSE Surveillance program or any limiting conditions of sampling contained within the Surveillance Program protocols. The USDA/APHIS training never included a requirement to clean and sanitize the sampling tools.

The only way the procedure we used after training differed from our USDA/APHIS instructions was that we adopted a plant procedure and practice to clean and sterilize the two instruments utilized in the BSE sampling after each use. The USDA/APHIS personnel did not require us to perform any additional cleaning and sterilization of slaughter equipment after processing animals sampled for BSE. We were instructed to clean our equipment per our existing Sanitary Standard Operating Procedures (SSOP's).

BSE Sampling Procedure

25. We were taught to perform the sampling procedure in the following manner. After the head is removed from the cow and placed on the USDA Head Inspection Rack, the sample was to be taken from the required location within the animal's brain. This was from the area at the back of the skull, where the spinal chord entered the head. We used the tweezers to stabilize the spinal chord in the head and then reached around with the spoon to loosen the proper section of the brain in the brain cavity (the spoon was bent just right to access this area). Then we pulled that spoon-sized sample out with the tweezers and placed it in a plastic bag, which we then sealed. We copied the dairy name (origin of the cow), the animal's dairy ID number, and Vern's Kill Number onto a paper Vern's Meats tag and placed this into a separate bag. This second bag was then attached to the first and both were hung from the wire on the Head Wash Cabinet.

26. We were not instructed to cool or freeze the sample after it was collected but if neither the APHIS nor Washington State veterinarian picked up the samples by the end of shift for that day, we would place the sample bags into our cooler as per their instruction. (The kill floor temperature can range from 50 degrees in the winter to 80 or 90 degrees in the summer.) Tuesdays, Wednesdays and Fridays are scheduled kill days at Vern's. One of the two VMO's would typically come by, at the end of shift, on Wednesdays and Fridays, pick up the samples and arrange the shipping to Iowa for the BSE Lab analysis.

27. We began the sampling program on October 1, 2003. On several occasions, when the holding pens were becoming too full, we walked some of these cows to the "back door" area and stunned them there. These animals were not crippled, injured, or in any other way non-ambulatory or even reluctant to walk. We took and submitted BSE samples from them. A review of the VMO's records at our plant, along with our kill records, will confirm that we took BSE samples on ambulatory cattle. USDA was aware and they never objected. Because the animals entered processing in this fashion, we performed a BSE Sample on these unquestionably ambulatory animals. These animals exhibited absolutely no outward appearance of BSE or Central Nervous System (CNS) symptoms.

28. The sampling services that Vern's performed were only for surveillance of animals that showed no CNS symptoms. Had any animal that arrived at our plant exhibited CNS symptoms, (symptoms similar to the television news clip, of a Holstein cow trying to stand and walk, from the BSE outbreak in England), it would have been condemned by the FSIS VMO. Then we would have remove the head and hold it until the Washington State Veterinarian could arrive and take a brain sample. Most of the time, we would assist him by sawing off the skull cap, but he would always take the sample. Then the carcass and the head would have been condemned and either sent to rendering or to a landfill, according to the VMO's directions.

29. The APHIS official would fax a statement to us at the beginning of each month that provided a listing of the number of BSE Surveillance samples that Vern's performed the previous month for invoicing purposes. A review of the BSE Surveillance program samples performed by our facility during the months of October 2003 through December 2003 will show that we performed a total of 258 samples. I have attached the first page of the APHIS faxed statements dated 11/2/03 (for October 2003) and 12/5/03 (for November 2003) as Exhibit 7, in which the APHIS official told us that we were doing a "great job" and that "[t]he number of samples you have been providing has exceeded our expectations."

Events of December 23, 2003

30.. At approximately noon on December 23, 2003, the FSIS District Manager (DM) for the Boulder District, called the FSIS staff at our plant. The FSIS staff came to me and informed me that the DM wished to speak with me. He asked me several questions that pertained to a cow we killed on December 9, 2003. He specifically requested all the information including the name of the dairy, the dairy owners name and telephone number, pertaining to the animal identified by our kill tag number 66435. I provided him with the information that I had and asked him what the problem was. He informed me that he was not at liberty to tell me anything at the moment. I knew something was wrong, even though I did not know what the something was. I called the owner of Midway Meats, the customer we had shipped our entire product to

from the kill date of December 9th. I advised him that something was wrong with the product he had received from us and that I would let him know more information when I learned it.

31. Around 7:30 PM that evening the FSIS Enforcement, Investigation and Analysis Officer (EIA) and the FSIS Assistant District Manager for Enforcement (ADME) drove to Moses Lake and informed us in person of the presumptive positive BSE cow. My wife and I began the process of accumulating all of the information requested by the various authorities to perform a traceback of the cow in question. The USDA Recall Information Sheet faxed to our facility for our use is attached as Exhibit 8 to this statement. The total product involved from the December 9, 2003 slaughter date totaled 10,410 pounds of product. In addition to beginning the gathering of records, the EIA Officer interviewed my brother, Larry, and me for all information pertaining to the BSE animal. He continued the interviews over the course of December 24th, 26th, and 27th.

Voluntary Recall of all product from December 9, 2003

32. The morning of December 24, 2003 the BSE sample was confirmed positive. However, we announced a voluntary recall of the entire products produced from our plant's slaughter operations on December 9th, approximately six hours before the USDA notified us of the positive BSE sample. We notified all of our customers of the recall by letter and by telephone. In addition to our normally assigned FSIS Inspection staff numerous people arrived at our facility from both the USDA/FSIS and FDA agencies. Our office was a flurry of activity; we were gathering and making available volumes of records requested by the various agency representatives and making copies of the records they requested. The events of that day are a vivid memory for me and the other members of my family

We Request USDA To Change BSE Sampling Protocol

33. My family and I took Christmas Day off and tried not to worry about the events we found ourselves caught up in. The news reports presented were definitely not portraying our plant in a favorable light. Irrespective of the news reports, the implications of a positive BSE animal concerned me. Accordingly, when I returned to work on December 26th, I prepared a handwritten request asking the USDA to sample all breeding age cattle slaughtered at our facility for BSE. I then faxed the request to the USDA. I have attached a copy of my handwritten letter as Exhibit 9 to this statement. To date, I have not received a reply to my letter.

34. We were concerned about any possible health implications to our employees from handling the BSE contaminated carcass, and if there were any public health implications from the BSE contamination entering our plant floor drains. The slaughter process routinely requires the washing of the carcass with water. The water is collected in the floor drain system in the plant and then enters the wastewater treatment system for the City of Moses Lake. We did not know if there was a possible health problem for the public and our employee's from the BSE contamination so we began an effort to seek information. We called the FSIS District Office, the FSIS Technical Service Center and anyone else we had phone numbers for within the USDA in an effort to seek our answers. We were not successful. Finally, my wife was

contacted by a gentleman from the BSE division of the Food Standards Agency in London, England, who was responding to questions she had posed on the internet in our search for answers. He briefly advised us of the answers to some of our questions and said he would send written materials soon afterwards, but we have yet to receive anything. Since this time USDA has issued notices describing Specific Risk Materials (SRMs); wash-water and what would typically go down the drains at this establishment is not considered an SRM by USDA.

Post Recall Events

35. Between December 27, 2003 and January 7, 2004, several events occurred that I will attempt to detail chronologically to the best of my memory. On December 27, the EIA Officer completed his interviews and informed me that he would forward his record of my interviews with him to me for my review and corrections. He provided me with an "Access and Examination" document that reminded me to maintain all records and provide access to these records as requested by the USDA. I have attached a copy of this document as Exhibit 10 to this statement.

36. On December 29, the APHIS Veterinary officer with whom we had worked over the previous months, as per instructions provided to him by his superiors, informed us that we were not to perform any additional BSE Surveillance Samples until further notice. I made a note of the telephone call and have attached that note as 11 to this statement. I understand that USDA has been having difficulty developing an adequate response to the positive test. They have a real dilemma on their hands. If they had responded to my request and said that we should test every animal and also required us to hold it until the results came back, this would be impossible for many companies. Due to their lack of foresight, now they have to play catch-up.

37. On December 29, I received a telephone call from Dr. DeHaven of the USDA. He thanked us for collecting the BSE Samples and for having maintained good records that aided in the recall process, and for our prompt actions in recalling the product. He asked if I had any concerns that he could address. I advised him that I would like to know if 1) there was a chemical kill step for BSE prions, 2) if Vern's Moses Lake Meats would be hammered during a future HACCP (the name of the current USDA/FSIS inspection regulations) review because of the positive BSE sample and 3) would we be scrutinized harder than normal during future HACCP reviews. Dr. DeHaven responded that there was no chemical kill step for BSE prions, but that the thorough, traditional cleaning we had performed based on our Standard Sanitation Operating Procedures (SSOP's) had been sufficient to ensure that we were safe in continuing to process. He also assured me that we would not be subjected to intensified HACCP reviews in the future.

38. Two Canadian officials came to our plant and reviewed our records that pertained to the kill date of December 9, 2003.

39. Several telephone conferences occurred between various FSIS/USDA/APHIS officials and me and at least one telephone conference call between USDA Officials, the two Canadian Officials that had reviewed documents at our plant and me. During this call the Canadian and USDA Officials asked me a series of questions pertaining to the BSE positive cow. I answered

all of their questions to the best of my knowledge and finally asked them if there was a problem with the records. After a period of silence, one of the Canadian Officials said I was one brain short. I advised them that the brain may have been flushed from the head before the sample could be taken. I reminded them that the USDA and the Canadian Officials had reviewed our paperwork and found it to be in order. Finally, one of the Canadian Officials advised me that there had been an error on the BSE Surveillance Paperwork; apparently someone other than our employees had transposed some numbers on the paperwork. Shortly after this statement, the conference call was ended.

40. I received the interview report from the EIA Officer. The report was accompanied by a prepared acknowledgment statement certifying that I had *“read the attached memorandum...have had the opportunity to make any corrections...(and)..agree generally in the content of the memo.”* I reviewed the report; made several handwritten corrections to it; attached a handwritten letter to the report and returned it. The major exception I immediately noted was that, by his wording, our plant was considered a “downer” plant. I also reiterated that we had explained our “no-downer policy” to the APHIS veterinarian and that, according to our “no-downer policy”, we would be sampling from ambulatory animals. I have attached the 5-page memorandum, the acknowledgement letter and my handwritten response as Exhibit 12, a total of 7 pages.

41. On January 7, 2004, I received a telephone call from FSIS Deputy Administrator, Bill Smith. Mr. Smith asked me to issue a letter to FSIS accepting full financial responsibility for the costs associated with the recall and disposal of the entire commingled product resulting from the BSE positive animal slaughtered at our plant. I refused, stating that I had already recalled all of the product from the December 9th kill date and would dispose of that product in accordance with FSIS instructions. But I did not believe I should be held financially responsible for the product shipped and processed by other processing plants. He advised me to: put into writing “why you feel you have fulfilled the terms of your letter of recall.” His statements and attitude had angered me, and I excused myself and ended the call.

After a few minutes I had calmed down and discussed the telephone call with an advisor. I then called Mr. Smith back. He was very curt to me upon answering, stating: “Didn’t I just speak with you?” I advised him that in a manner of speaking I had sought counsel and that I was requesting he place his requests in a letter and send it to me. At this point, according to the notes I made of the conversation, Mr. Smith asked for my “written opinion on why you are not responsible for all co-mingled recalled product,” and said that he needed this so that he “would know what legal administrative action [he] needed to take against Vern’s Moses Lake Meats.” At that point he ended the call. I later learned that Mr. Smith or the Boulder DM had made similar demands of the owner of Midway Meats, before calling to make demands and threats to me. I prepared a letter of response and sent it to the USDA. I have attached my two-page response letter as Exhibit 13 to this statement.

42. On January 8, 2004, I was advised by our FSIS Inspector In Charge (IIC) that the Boulder DM had informed the IIC that as soon as an animal entered onto our property it was under the control of the USDA/FSIS. Simply put, this means that if a rancher or dairyman sends a cow to our plant for slaughter that exhibits symptoms of CNS, I cannot send that animal back to the owner. I would then become responsible for the fees involved in killing the animal and disposing of the carcass in a lined landfill. The disposal fees associated with such an animal

would approximate \$300.00 per animal for which I would not be able to charge the dairyman or rancher. I called the DM to question the logic behind such a policy. He was very polite and apologetic, stating that it was his understanding that the newly adopted FSIS policy was beyond his control.

43. On January 8, 2004, I received the fax of the list of BSE Samples performed during the month of December 2003 from Dr. Rory Meyer. I have attached the four-page document to this statement as Exhibit 14. The BSE positive animal is identified on page two, sample # 29.

44. On January 16, I received a telephone call from a Dr. Peterson of the USDA. He advised me that funds would be made available to reimburse me for the product that Vern's Moses Lake Meats had to recall. He advised me that although FSIS did not have the funds, other agencies within the USDA did and arrangements were being made to transfer the funds. He promised to contact me again in a few days and advise me when the funds would be made available to cover the costs of the meat we recalled and for the disposal of the product in accordance with FSIS regulations. Since then, I have been told by Boulder District that only a partial reimbursement would take place and that we would have to sign a release of liability before they would give us this partial reimbursement.

45. During the handling of this incident we have found that it has been difficult to get answers to some of our questions and concerns in writing from the government. When I've asked for instructions from USDA in writing I have been told on many occasions that USDA personnel could not give me that. Often, when I said that I would have to go over their heads to try to get it in writing, I was encouraged to do so, and told that this is the only way I could get the answers in writing. It appeared to me that people were being told what to tell us but they would not be supported by their superiors by putting that policy in writing. This has been a trying time for us and it does not make us feel comfortable that the government will not commit instructions to writing.

On January 10, 2004, for instance, I wrote a letter to the FSIS Boulder District Office with copies to senior FSIS and APHIS officials, asking for answers to important questions that our on-site USDA personnel were unable to give us. These questions included 1) whether we now need to send "specified risk materials" (SRMs) to lined land-fills or whether we can continue to send them to inedible rendering, 2) how should we handle buffalos, which are bovines and are not usually slaughtered until they are over 30 months old, and 3) what should be done with beef, from cattle over 30 months of age, that was processed prior to the new restrictions but that still may be in freezers or commerce? I have yet to receive a reply to these questions though they are important issues that face us nearly every day. I have attached this letter as Exhibit 15.

Also, during the recall events, FDA officers were also at our facility at the same time as USDA compliance officers were. We gave them the same cooperation as we did to everyone else. (One FDA officer, I do not remember her name, was pleasant to work with and she did thank us for our cooperation.) We had to make a lot of duplicate copies for FDA that we had already made for USDA. After they left, during the following week, an FDA officer called and requested a large number of copies that we had already made available to USDA. I questioned if they needed them when we had already made them available to USDA and they said they did. I then asked them to give me in writing just what exactly they needed and that they had the authority to request this information. I was told that they would not do that and that they

would have their boss call me. I was called by a FDA supervisor and I told him to request this information, and that they had the authority to have it, in writing and he declined. When I questioned him, I made a note of his response. "FDA agents will often ask for documents that they do not have the authority to ask for." I was also told that if we did not supply the documents they would note in their report that we did not cooperate. I find that this is an interesting aspect of our government that reminds me of governmental agencies of other countries' governments that our nation has helped to defeat.

Summary

In the days following the recall of BSE positive product Vern's Moses Lake Meat Inc. has remained largely silent because we have felt that the livestock industry and USDA as well as the meat industry would recuperate faster if we were quiet about the things we feel have not been done as they should have been. We have consistently avoided answering or commenting, when possible, on questions from the news media that would cause USDA embarrassment or be controversial in nature to USDA and their policies, though I have tried to let USDA know of areas that were not going to make them look good in public. I have been outspoken towards the news media and told them that the "USDA is working to develop new policies that will be better for the consumer, producer and the meat industry". And I have told them when asked if this was a "downer" that according to our definition it was not a "downer" but that USDA and Verns would work that out without help from the news media.

As a result, we were accused of being a "downer plant," our business ground to a halt and our employees' work hours were cut drastically or entirely because of the lack of business. Throughout all of this we remained hopeful and confident that the USDA would publicly acknowledge that we were not a "downer plant," that we were performing a service to the USDA that they had requested we perform and that we had performed that service exactly as they had requested. They have not done so. At this point, we would not volunteer to perform such a service again because the USDA does not have a program to prevent a plant such as ours from being made the scapegoat. I do not have the confidence that USDA would not allow harm to come to us again. While they made a few statements in the beginning they have not made it sufficiently clear to the public that we and the other businesses involved were blameless in this incident. Before we would expose ourselves again to the risk potential that is there we need to see a written USDA policy to protect the plants that are cooperating with them.

Despite this, there have been a few positive experiences in the previous weeks. First, I am proud to be part of an industry that responded very promptly to make sure that a prompt and complete recall was affected. Second, I would like to say that we have been very impressed by the professionalism and courtesy displayed by all USDA/FSIS, USDA/APHIS, Washington State and Canadian officials involved in the recall and containment process, with some exceptions, the main one being the threatening phone call from Mr. Bill Smith. Finally, Dr DeHaven did call personally and thanked us for our part in the BSE testing program and to ask what our concerns were and to ask if I thought a 36-hour turn around test for BSE would work. This was humbling for us that he would take time to call us and I very much appreciated it (it was a bright spot in a dark period for us).

I cannot, however agree with the USDA's recent policy regarding the sampling for BSE. The efforts of others to portray our plant as a "downer" plant could be considered a

smokescreen. That animal did not exhibit any BSE symptoms while on the farm nor on the day it was slaughtered but it was still positive for BSE. If this cow had been slaughtered at another facility prior to her calving on November 29, 2003 she would not have been lame and there would be no debate about if she was or was not ambulatory. At that time she would have passed inspection, just as she did on December 9th. But, at most other facilities, she would not have been tested for BSE, because so few other plants were doing this testing. Therefore, SHE WOULD HAVE ENTERED AND REMAINED IN THE FOOD CHAIN. Now I do not wish to sensationalize this, but it is a fact. This cow did walk on the trailer at the dairy and off the trailer at our establishment. However this should not be the issue as USDA and the news media wish it to be. THE ISSUE IS THAT ONE MONTH PRIOR TO THIS THE COW DID STILL HAVE BSE AND WOULD NOT HAVE BEEN TESTED. I believe that USDA has been willing to let the issue of whether this cow was a downer detract from the critical issue of what cattle should actually be tested.

I personally feel that we need an extensive testing program for fully ambulatory cattle. We need to show to the world that we have a safe beef supply that is free of BSE. The quickest way to do this is for an adequate sampling method of all mature beef to begin NOW. I do not think we will see a large number of positive BSE cattle (based on Canada's testing this last nine months or so). However if we do not develop a comprehensive program we cannot prove this to the consumers, domestic and abroad.

I also feel that we should seriously consider using the newer, more rapid tests. My wife learned through her efforts to speak with representatives in England, that they can provide a 24 to 36 hour turnaround on BSE samples. At our facility from the day the sample was taken to the date it was confirmed positive was a total of approximately 15 days. Had we even suspected the animal was BSE positive I could have shipped the sample to England and received the results; stopped and recalled the distribution of the product in less than one-half the time it took for the Agency to provide an answer regarding whether or not the sample was positive. These tests would minimize the potential harm to consumers and businesses from any other positive BSE animals.

Under current, USDA regulations, Vern's Moses Lake Meats and all other federally inspected facilities must establish written procedures and policies that describe what we are putting into effect at our plant to ensure consumer protection from this and other food safety hazards. USDA should also be able to explain, in a way that can be easily read and understood by everyone, what they are doing to protect the public from other cattle that may have this disease. In my opinion USDA should be held accountable for not having adequate programs and procedures, not only to protect consumers but also to protect businesses and USDA workers, because this is what industry has to do.

On December 26, 2003 we sent a request to USDA that "every breeding age beef slaughtered at this facility" would be tested. As of February 2, 2004, not one test has been performed here. I would like to know how many tests USDA can verify were actually taken during all of 2003. How many tests were performed in the 30 days prior to December 24, 2003? How many tests have been performed in the 30 days after Dec. 24, 2003? How many of the tests taken since the positive animal was found have been taken at slaughterhouses and how many were taken from dead animals on the farms? It would be enlightening, as a consumer, to know the answers to these questions. Finally, I am concerned that the agency has imposed policy changes that will virtually guarantee that the downer animals, which they are claiming are the most probable BSE suspects (I do not agree with them that these should be the only targeted animals), will not be tested. Plants like ours, who have always prided ourselves on

cooperating with USDA in protecting the public, now must make the choice that we cannot afford to do so, because otherwise we will have to operate an expensive rendering and disposal service or USDA. As it now stands, all federally inspected facilities that slaughter beef will be held responsible for any animal that enters our property and is then condemned and tested for BSE. If we let these animals on site, we will have to send these carcasses to lined landfills or special disposal sites, which will be very expensive. The only alternative for us and other packers will be to refuse live animals that we feel should be tested and force the owner to take the animals some place else – for example to small “custom-exempt” slaughterers – where there is no USDA inspection. When we must do this, these animals may or may not enter the food chain but they most likely will not be BSE tested.

In closing, I want to state again that there are many fine people working for USDA and the Washington Department of Agriculture and they should not be punished because they were involved in an organization whose programs are lacking.

I have reviewed this 18 page statement and swear it is true and factual to the best of my knowledge.

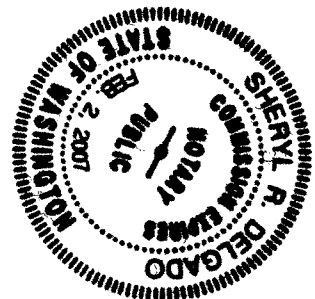
Executed on 2-09- 2004

Tom Ellert, Thomas A. Ellert
Signature

Subscribed and sworn to before me
This 9th day of FEB, 2004

Sheryl R. Delgado
Notary Public Signature

My Commission expires on: 2-2-07



TO VERN'S MOSES LAKE MEAT INC.

IN ORDER TO COMPLY WITH VERN'S MEATS POLICY ON HUMANE HANDLING OF LIVESTOCK, I AGREE THAT I WILL NOT HAUL LIVESTOCK TO THEM TO SLAUGHTER THAT HAVE BEEN LOADED AS "DOWNERS" (LOADED ON THE TRAILER BY MECHANICAL MEANS).

SIGNED BY:

A handwritten signature in dark ink, appearing to read "Randy Huel", written over the "SIGNED BY:" label.

DATE:

2-18-03

He was
harassed

It was brought to my attention that a livestock hauler had several cattle on his trailer that were lying down & he said they had walked on ~~and~~ without mechanical assistance. He received comments (Heard) & innuendo from USDA ^(Reluctant) staff that expressed doubt that these animals had ~~been~~ ^{walked} off on the trailer. To prove the point - The driver forced the two cows to walk off the trailer. The reason we have moved our humane handling of livestock beyond USDA requirements is so that cattle (when it is not humane) do not have to walk when they are possibly in pain. ~~And~~ I have also been suggested that I force the haulers to not have winches on their rigs. My answer is that they are used for other purposes other than livestock & I cannot stop haulers from having a rig set up to haul "downers" (animals that are drug on). At other USDA plants that are only operating under USDA guidelines our policy is that (partly) we will not let USDA force us to inhumanely treat animals to prove to USDA that they can walk.

[Signature]

EL ORO
MP 3680322

CERTIFICATE OF ANTE-MORTEM OR POST-MORTEM DISPOSITION OF TAGGED ANIMALS

The history of ownership of animals is generally unknown to this Agency; therefore this document should not be interpreted as a certification of origin of the animal or animals listed below.

THIS CERTIFICATE IS VOID IF IT CONTAINS ANY ERASURES OR ALTERATIONS. Any space not used must be lined or crossed out by the person completing the form.

AREA <i>Salem</i>	ESTABLISHMENT NAME <i>Vern's meats</i>	EST. NO. <i>09318</i>	DATE OF DISPOSITION <i>6/11/03</i>	SPECIES <i>Bovine</i>
TAG NOS. AND KIND <i>4332863</i> <i>4332862</i> <i>m2136002</i>	DIAGNOSIS OR CONDITION <i>abscess/pyemia</i> <i>abscess/pyemia/septic</i> <i>pneumonia/septicemia</i>			DISPOSITION <i>Condemn</i> <i>Condemn</i> <i>Condemn</i>
This is to certify that the animals bearing the tags described above were presented at the establishment named and that they were inspected and disposed of as indicated above in accordance with the Federal meat-inspection regulations.			SIGNATURE OF OFFICER IN CHARGE	DATE <i>6/11/03</i>

FSIS FORM 6000-13 (2/5/1999)

REPLACES FSIS FORM 6000-13 (7/90), WHICH MAY BE USED UNTIL EXHAUSTED.

ORIGINAL TO ESTABLISHMENT

Henry HAAK

MP 3680323

CERTIFICATE OF ANTE-MORTEM OR POST-MORTEM DISPOSITION OF TAGGED ANIMALS

The history of ownership of animals is generally unknown to this Agency; therefore this document should not be interpreted as a certification of origin of the animal or animals listed below.

THIS CERTIFICATE IS VOID IF IT CONTAINS ANY ERASURES OR ALTERATIONS. Any space not used must be lined or crossed out by the person completing the form.

AREA <i>Salem</i>	ESTABLISHMENT NAME <i>Vern's meats</i>	EST. NO. <i>509318</i>	DATE OF DISPOSITION <i>6/11/03</i>	SPECIES <i>Bovine</i>
TAG NOS. AND KIND <i>74757098</i>	DIAGNOSIS OR CONDITION <i>monibund</i>			DISPOSITION <i>Condemn</i>
This is to certify that the animals bearing the tags described above were presented at the establishment named and that they were inspected and disposed of as indicated above in accordance with the Federal meat-inspection regulations.			SIGNATURE OF OFFICER IN CHARGE	DATE <i>6/11/03</i>

FSIS FORM 6000-13 (2/5/1999)

REPLACES FSIS FORM 6000-13 (7/90), WHICH MAY BE USED UNTIL EXHAUSTED.

ORIGINAL TO ESTABLISHMENT

CERTIFICATE OF ANTE-MORTEM OR POST-MORTEM DISPOSITION OF TAGGED ANIMALS

MP 3680325

The history of ownership of animals is generally unknown to this Agency; therefore this document should not be interpreted as a certification of origin of the animal or animals listed below.

THIS CERTIFICATE IS VOID IF IT CONTAINS ANY ERASURES OR ALTERATIONS. Any space not used must be lined or crossed out by the person completing the form.

AREA <i>Salem</i>	ESTABLISHMENT NAME <i>Vern's meats</i>	EST. NO. <i>09318</i>	DATE OF DISPOSITION <i>6/13/03</i>	SPECIES <i>Bovine</i>
TAG NOS. AND KIND <i>24752099</i>		DIAGNOSIS OR CONDITION <i>pyrexia</i>		DISPOSITION <i>Condemned</i>

This is to certify that the animals bearing the tags described above were presented at the establishment named and that they were inspected and disposed of as indicated above in accordance with the Federal meat-inspection regulations.

SIGNATURE OF OFFICER IN CHARGE

DATE
6/13/03

FSIS FORM 6000-13 (2/5/1999)

REPLACES FSIS FORM 6000-13 (7/90), WHICH MAY BE USED UNTIL EXHAUSTED.

ORIGINAL TO ESTABLISHMENT

Dasma

CERTIFICATE OF ANTE-MORTEM OR POST-MORTEM DISPOSITION OF TAGGED ANIMALS

MP 3680324

The history of ownership of animals is generally unknown to this Agency; therefore this document should not be interpreted as a certification of origin of the animal or animals listed below.

THIS CERTIFICATE IS VOID IF IT CONTAINS ANY ERASURES OR ALTERATIONS. Any space not used must be lined or crossed out by the person completing the form.

AREA <i>Salem</i>	ESTABLISHMENT NAME <i>Vern's meats</i>	EST. NO. <i>09318</i>	DATE OF DISPOSITION <i>6/13/03</i>	SPECIES <i>Bovine</i>
TAG NOS. AND KIND <i>24757100</i>		DIAGNOSIS OR CONDITION <i>Cachexia</i>		DISPOSITION <i>Condemned</i>

This is to certify that the animals bearing the tags described above were presented at the establishment named and that they were inspected and disposed of as indicated above in accordance with the Federal meat-inspection regulations.

SIGNATURE OF OFFICER IN CHARGE

DATE
6/13/03

FSIS FORM 6000-13 (2/5/1999)

REPLACES FSIS FORM 6000-13 (7/90), WHICH MAY BE USED UNTIL EXHAUSTED.

ORIGINAL TO ESTABLISHMENT

Liberty

CERTIFICATE OF ANTE-MORTEM OR POST-MORTEM DISPOSITION OF TAGGED ANIMALS

MP 3680326

The history of ownership of animals is generally unknown to this Agency; therefore this document should not be interpreted as a certification of origin of the animal or animals listed below.

THIS CERTIFICATE IS VOID IF IT CONTAINS ANY ERASURES OR ALTERATIONS. Any space not used must be lined or crossed out by the person completing the form.

AREA <i>Salem</i>	ESTABLISHMENT NAME <i>Vern's meats</i>	EST. NO. <i>09318</i>	DATE OF DISPOSITION <i>6/13/03</i>	SPECIES <i>Bovine</i>
TAG NOS. AND KIND <i>m2436009</i>		DIAGNOSIS OR CONDITION <i>pneumonia</i> <i>upgraded to safe</i>		DISPOSITION <i>Condemned</i>

This is to certify that the animals bearing the tags described above were presented at the establishment named and that they were inspected and disposed of as indicated above in accordance with the Federal meat-inspection regulations.

SIGNATURE OF OFFICER IN CHARGE

DATE
6/13/03

FSIS FORM 6000-13 (2/5/1999)

REPLACES FSIS FORM 6000-13 (7/90), WHICH MAY BE USED UNTIL EXHAUSTED.

DECLARATION

My name is Randy Hull. I am submitting this DECLARATION freely and voluntarily, without any threats, inducements or coercion, to Rick Parks. Mr. Parks has identified himself to me as an investigator for the Government Accountability Project, a public interest law firm investigating the recall of a cow that tested positive for Bovine Spongiform Encephalopathy (BSE) that entered commerce from Vern's Moses Lake Meats, Inc. Mr. Parks has advised me that he was provided with a list of witnesses by Tom Ellestad of Vern's Moses Lake Meats. Mr. Parks advised me that Tom Ellestad provided Mr. Parks with this list in order for Mr. Parks to substantiate the information provided to him by Mr. Ellestad. Mr. Parks has spoken with me to determine the knowledge I possessed regarding certain animals that were slaughtered on December 9, 2003 at Vern's Moses Lakes Meats in Moses Lake Washington.

I make my living as a livestock hauler. I pick up animals from Auction Yards, Dairy's, Ranches, etc. and haul them to the destination required. I have been hauling animals from various ranches, dairy's, etc. to Vern's Moses Lake Meats for approximately two and one-half years.

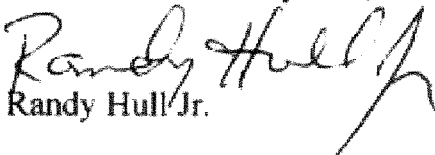
In the early part of 2003, Tom Ellestad advised me that he was changing his policy on "downer" cows; that he would no longer accept "downer" cows and would require me to sign a statement acknowledging that I would not use any mechanical means to load animals onto my trailer and haul the animals to his facility. I readily agreed and signed the statement. I have honored my commitment to Tom Ellestad ever since.

On December 9, 2003, I loaded three Holstein Cows at the Sunny Dene Dairy for transport to Vern's Moses Lake Meats. I picked up one cow in one location at the dairy and two other cows at a different location. The herdsman at the dairy assisted in the loading of the cows onto the truck. The animals each walked onto my trailer. I also picked up several more animals that day at various other locations other than the Sunny Dene Dairy.

Upon arrival at Vern's Moses Lake Meats four of the animals were lying down at the end of my trailer. Tom Ellestad asked me if the animals walked onto the trailer and I confirmed they did. All four were capable of walking off the trailer.

I have reviewed this one page statement and swear it is true and factual to the best of my knowledge.

Executed on January 21st, 2004


Randy Hull Jr.

**VERN'S
M & L MEAT CO.**

Tom Elliott
ANIMALS KILLED

840-0691

DATE *12-09-03*

VER.	KILL NO.	TAG NO.	NAME		WT.	KIND	TIME
<i>pd</i> 1	✓ 66424	✓ 074	Johnson	<i>B</i>	786	✓ Hal C	
2	✓ 425	✓ 424		<i>RE</i>	369	✓	
3	✓ 26	424	Trimex Pass	Retained	471 471	✓	
4	27	076		Retained	844	Cond	
5	✓ 28	471		<i>RE</i>	511	✓	
6	✓ 29	401		<i>RE</i>	556	✓	
7	✓ 30	430		<i>RE</i>	412	✓	
8	✓ 31	072		<i>RE</i>	589	✓	
9	32	468		BD ⁺	Cond		
10	✓ 33	1634	oord	BD	438	✓ 3/4	
11	✓ 34	9305	oord	BD	473	✓ 3/4	
12	✓ 35	6810	Sunnydome	BD	581	✓	
13	✓ 36	7596	1 1	BD	631	✓ Ret Cond	
14	37	4000	Riverview	BD	Cond		
15	✓ 38	5440	Sunnydome	BD	496	✓	
16	✓ 39	5440	Vanderway	BD	440	✓	
17	40	5147	Riverview	BD	657	Ret Cond	
18	✓ 41		Sunnydome	BD	595	✓	
19	✓ 42		Co/e	<i>RE</i>	590	✓	
20	✓ 43			Retained	711	✓	
21	✓ 44			<i>RE</i>	542	✓	
22	✓ 45			<i>RE</i>	511	✓	
23	✓ 46	128	monson	<i>RE</i>	349	✓ ST	
24	✓ 47	128		<i>RE</i>	349	✓ ST	
25	48		<i>Tom 4:10 PM</i>	<i>RE</i>	44 44	Lamb	
26	49		<i>Tom 4:15</i>	<i>RE</i>	45 45		
27	50			<i>Tom</i>	48		
28	51						

Randy Hull

12-9-03

Take and Jenny D.	2hd	90 ⁰⁰
Case Vandermeulen	1hd	45 ⁰⁰
Riverview Ranch	2hd	90 ⁰⁰
Sunny Lane Dairy	3hd	135 ⁰⁰
OODD #1	3hd	135 ⁰⁰

\$495⁰⁰

UNITED STATES DEPARTMENT OF AGRICULTURE

PURCHASE ORDER

PAGE NO. OF	CONTRACT NUMBER Open Market	ORDER DATE 10/06/2003	ORDER NUMBER 43-6395-4-0259
TYPE PURCHASE (Check One) <input checked="" type="checkbox"/> PURCHASE ORDER (See Reverse) <input type="checkbox"/> DELIVERY ORDER		SELLER'S IDENT. NO.	FORM 1099 <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES
		TAXPAYER'S IDENT. NO. 91128688 A	

TO: (Seller's Name, Address, City, State, Zip Code, and Phone No.)
VERN'S MOSES LAKE MEATS
ATTN: TOM ELLESTAD
2721 PENINSULA DRIVE
MOSES LAKE, WA 98837-2842 Phone: 509.765.5671

SHIP
TO
▶

Consignee, Address, Zip Code, and Place of Inspection and Acceptance
USDA APHIS VS -V49-
2604 12TH COURT SW, SUITE B
OLYMPIA, WA 98502-5715

LINE ITEM	ACT CODE	DESCRIPTION	QUANTITY	UNIT ISSUE	UNIT PRICE	AMOUNT
1		<p>IN ACCORDANCE WITH USDA, APHIS, VETERINARY SERVICES' BSE SURVEILLANCE PROGRAM, VERN'S MEATS WILL BE REIMBURSED CATTLE CARCASS DISPOSAL FEES. FOR EACH ANIMAL FROM WHICH A BSE SURVEILLANCE SAMPLE IS COLLECTED, VERN'S WILL BE REIMBURSED \$10.00. THE TOTAL NUMBER OF ANIMAL DISPOSALS PAID UNDER THIS PURCHASE ORDER WILL NOT EXCEED 1000 DURING THE TIME PERIOD OCTOBER 1, 2003 THRU SEPTEMBER 30, 2004. SEND THE ORIGINAL AND ONE COPY OF THE MONTHLY INVOICE TO THE CONSIGNEE AT THE ADDRESS SHOWN ABOVE SUSAN HAWLEY 360-753-9430</p> <p>PLEASE SHOW THE PURCHASE ORDER NUMBER ON EACH MAILING LABEL AND THE INVOICE</p> <p>"THIS CONTRACT IS CONDITIONED UPON THE PASSAGE OF AN APPROPRIATION BY CONGRESS FROM WHICH EXPENDITURES THEREUNDER MAY BE MADE AND SHALL NOT OBLIGATE THE UNITED STATES UPON FAILURE OF CONGRESS TO APPROPRIATE"</p> <p>(End of Report)</p>	1000	EA	10.00	\$10,000
THIS PURCHASE ORDER NEGOTIATED PURSUANT TO AUTHORITY OF 41 U.S.C. 252(c)(1)						
F.O.B. POINT Destination		DISCOUNT AND/OR NET PAYMENT TERMS Net30			TOTAL ▶	\$10,000
DELIVER TO F.O.B. POINT ON OR BEFORE (Date) 09/30/2004		SHIP VIA				

BILLING INSTRUCTIONS:

No Billing Will Be Submitted In Advance Of Shipment

Furnish Invoice With Our ORDER NUMBER To:



— SEE ABOVE FOR BILLING INSTRUCTIONS & —
CONTACT PERSON FOR PAYMENT INQUIRIES

FAILURE TO SHOW OUR PURCHASE ORDER NUMBER ON INVOICE WILL DELAY PAYMENT
FREIGHT CHARGE OVER \$100 REQUIRES BILL OF LADING
IF AVAILABLE, INCLUDE YOUR NINE POSITION DUNS NUMBER ON EACH INVOICE

DO NOT
SHIP ORDER TO
THIS ADDRESS
(Ship to Consignee
Address Above)

ISSUING OFFICE NAME AND ADDRESS
USDA APHIS MRP-BS ASD
BUTLER SQUARE WEST 5TH FLOOR
100 NORTH 6TH STREET
MINNEAPOLIS, MN 55403

ORDERED BY (Name and Title)
CHARLENE L LAMBERT; CONTRACTING OFFICER

COMMERCIAL PHONE (Area Code and Number)
612-336-3223

AUTHORIZED SIGNATURE

SELLER'S ORIGINAL

FORM AD-838-5PE (Rev.

Rory A. Meyer, DVM
Veterinary Medical Officer
USDA APHIS VS
300 E Helena Ave #82
Ellensburg, WA 98926
Phone/Fax: 509-933-1433

USDA APHIS VS

Fax

To: Tom Ellestad

From: Rory Meyer

Fax: 509-766-0304

Pages: 1+3

Phone:

Date: 11/2/2003

Re: Sample Numbers

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Tom,

The results from collections for this month are to follow. 81 samples were submitted for testing from your plant. Great job and thanks.

I am out of town next week so if you need anything either talk to Lee Williams or call the Olympia office at 360-753-9430.

Have a great and will see you when I get back.

Regards,

Rory Meyer

Exhibit 7
Page 2 of 2

Rory A. Meyer, DVM
Veterinary Medical Officer
USDA APHIS VS
300 E Helena Ave #82
Ellensburg, WA 98926
Phone/Fax: 509-933-1433
Mobile: 360-801-1690

USDA APHIS VS

Fax

To: Tom -- Vern's Meats

From: Rory Meyer

Fax: 509-766-0304

Pages: 1+3

Phone:

Date: 12/5/2003

Re: Sample Numbers - November

CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Tom,

I am sending you the numbers of samples we submitted for our surveillance program. I apologize I did not get this to you earlier this week but I was out of town.

You provided us with 87 samples for the month of November. Please check with your records and then go ahead and send an invoice to the Olympia office if all is fine. If they do not, give me a call and we will straighten it out. The address is:

USDA APHIS VS
2604 12th Court SW, Suite B
Olympia, WA 98502-5715

I want to again thank you for your work in helping us with our surveillance program. The number of samples you have been providing has exceeded our expectations.

If you have any questions, please don't hesitate to contact me. My new cell phone number is 360-801-1690.

Regards,

Rory Meyer

Exhibit 8

Page 1 of 1

RECALL INFORMATION DATA SHEET

(Include attachments, additional pages, label copies and flowcharts as necessary.)

TODAYS DATE: 12-23-03ESTABLISHMENT NUMBERS: EST. 9318 P. ESTABLISHMENT NAME: Verns Moses Bulk Meat Inc.ADDRESS: P.O. Box 1618COMPANY RECALL COORDINATOR (name, title, telephone) Tom EllestadCOMPANY MEDIA CONTACT (name, title, telephone) Tom Ellestad - Secretary -
509-765-4182COMPANY CONSUMER CONTACT (name, title, telephone) Tom Ellestad - SecretaryREASON FOR RECALL: presumptive positive**RECALLED PRODUCTS:**

BRAND NAME			
PRODUCT NAME			
PACKAGE (Type & Size)	<u>20 Beef Carcasses</u>		
PACKAGE CODE (Use By/Sell By)			
PACKAGING DATE			
CASE CODE (Identifying)			
COUNT/CASE			
PRODUCTION DATE	<u>12-09-03</u>		
AMOUNT (lbs./cases) PRODUCED			
AMOUNT HELD AT ESTABLISHMENT	<u>offal products</u>	<u>Approx. 400*</u>	
AMOUNT (lbs./cases) DISTRIBUTED	<u>10,410 pounds</u>		
DISTRIBUTION LEVEL (institutional/retail/etc)			
DISTRIBUTION AREA			
EXPORTED TO (country)	<u>NO</u>		
CHILD NUTRITION (CN, AMS Contract)	(YES) (NO)	(YES) (NO)	(YES) (NO)
DEPT. OF DEFENSE (DSCP, Commissary, etc.)	(YES) (NO)	(YES) (NO)	(YES) (NO)
INTERNET OR CATALOG SALES	(YES) (NO)	(YES) (NO)	(YES) (NO)

COMPANY RECALL

COORDINATOR SIGNATURE: Tom EllestadDATE: 12-23-03

TO: USDA

12-26-03 8:24 AM

VERNS MOSES LAKE MEAT INC. IS REQUESTING
THAT EVERY BREEDING AGE (CLASS) OF BEEF
SLAUGHTERED AT THIS FACILITY EST. 9318
FROM THIS TIME ON WILL HAVE BSE TESTS
RUN ON THEM. WE WILL WAIT FOR AN
ANSWER FROM USDA.

DAVE ELLARD

ACCESS AND EXAMINATION

Sec. 642. Recordkeeping requirements

- (a) **Classes of persons bound; scope of disclosure; access to places of business; examination of records, facilities, and inventories; copies; samples**

The following classes of persons, firms, and corporations shall keep such records as will fully and correctly disclose all transactions involved in their businesses; and all persons, firms, and corporations subject to such requirements shall, at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all such records, and to take reasonable samples of their inventory upon payment of the fair market value therefor -

- (1) Any persons, firms, or corporations that engage, for commerce, in the business of slaughtering any cattle, sheep, swine, goats, horses, mules, or other equines, or preparing, freezing, packaging, or labeling any carcasses, or parts or products of carcasses, of any such animals, for use as human food or animal food;
- (2) Any persons, firms, or corporations that engage in the business of buying or selling (as meat brokers, wholesalers or otherwise), or transporting in commerce, or storing in or for commerce, or importing, any carcasses, or parts or products of carcasses, of any such animals;
- (3) Any persons, firms, or corporations that engage in business, in or for commerce, as renderers, or engage in the business of buying, selling, or transporting, in commerce, or importing, any dead, dying, disabled, or diseased cattle, sheep, swine, goats, horses, mules, or other equines, or parts of the carcasses of any such animals that died otherwise than by slaughter.

- (b) **Period of maintenance**

Any record required to be maintained by this section shall be maintained for such period of time as the Secretary may by regulations prescribe.

21 U.S.C. 642- SECTION 202 of the Federal Meat Inspection Act.

Marta E. Marin
EIA Officer

12/12/2003



U.S. Department of Agriculture
Food Safety and Inspection Service
Field Operations
District Inspection Operations

LEONARD (LEO) RAMSEY
Assistant District Manager for Enforcement

530 Center St NE, Mezzanine
Salem OR 97301

Phone (503) 399-5631
Fax (503) 399-5611

DO NOT TAKE ANY
MORE SAMPLES FOR
USDA; AS per Lee
Williams - 3:37 pm.
12-29-03
UNTIL FURTHER NOTICE.

when shop at any USDA

W

December 31, 2003

TO: Martin E. Morin, Enforcement, Investigation and Analysis Officer
Boulder District office
Salem, Oregon

I have read the attached memorandum consisting of five (5) type written pages. I have had the opportunity to make any corrections and/or additions. I agree generally in the content of the memo.

Signed: _____

Thomas A. Ellestad, Co-Manager/Secretary
Vern's Moses Lake Meats Inc.
Moses Lake, Washington.

MEMORANDUM OF INTERVIEW

December 29, 2003

Thomas A. Ellestad, Co-Manager, Secretary
Vern's Moses Lake Meats, Moses Lake, WA
To

Page 1 of 5

Vern's Moses Lake Meats, Est. 9318 is a small slaughter/processing firm that employs approximately 10 people. The firm operates under a Grant of Federal Inspection. The firm slaughters multiple species of animals. The meat from the carcasses is cut up or ground into fresh products. The firm is in the business of selling carcasses to other producers. From 5-30 animals may pass through the slaughter operations on a daily basis. There may also be days that no slaughter operations occur. The firm operates under exemptions for retail sales, custom, and wild game processing.

On December 23, 2003 Martin E. Morin, Enforcement, Investigation, and Analysis Officer (EIA) and Leonard Ramsey, OPEER Supervisory Program Investigator, arrived at Vern's Moses Lake Meats Inc., Est. 9318, Moses Lake, Washington. The USDA employees identified themselves with USDA provided Official Credentials. They met with Mr. Thomas A. Ellestad, Co-Manager/Secretary and Mr. Lawrence A. Ellestad, Co-Manager/President of the firm and explained why they were there. The primary contact for the resulting multi-day inquiry was Mr. Thomas A. Ellestad (T. Ellestad). In interviews and discussions conducted on December 23, 24, 26, and 27 T. Ellestad essentially informed the EIA of the following information.

① T. Ellestad had been informed that a Holstein cow slaughtered at Est. 9318 on 12/09/2003 had tested positive for bovine spongiform encephalopathy (BSE). The animal was further identified on Est. 9318 documentation as having a state back tag of 6810. Est. 9318 applied a company carcass tag of 66435 after slaughter. The animal was delivered as part of a load hauled in by Randy Hull. The animal was part of a herd of Dairy cattle at Sunny Dene Farms, Mabton, WA prior to being designated to be sent to slaughter. On 12/09/2003 twenty two dairy type cattle, two small steers and three lambs were slaughtered. *PLASTIC E.T.*

② Animal #66435 was non-ambulatory and therefore a brain stem sample was obtained. This brain stem test was a result of a voluntary testing program. Est. 9318 had entered into an agreement with both the State of Washington and USDA APHIS divisions at approximately the beginning of October 2003 (approximately 3 months ago). In the agreement, the plant personnel take brain stem samples, identify them, and hold them for pick up by Dr. Lee Williams, WA APHIS or Dr. Rory Meyer, USDA APHIS. The samples are then sent by one of these individuals to Ames, IA to be tested. The firm provided an invoice # 40213, dated 12/11/2003 revealing 86 animals had been tested and the Department of Agriculture was charged \$10.00 for each sample taken. *NO DOWNS
OK. W. AT MY
REQUEST - INSISTED
CHANGED WORDING
CONTRACT*

③ The animals tested are referred to by the firm as "back door" animals. These animals may also be deemed as US Suspect upon ante mortem findings. The firm defines this type of animal as an animal that can not walk up the incline to the knocking box on their own. The firm also considers this to be more humane for the animal. The animal is then brought, on level ground, to an area directly behind the knocking box and stunned. An electric hoist is then used to lift the animal up and into the knocking box. The animal is rolled into the slaughter floor and proceeds through the traditional slaughter process. *without increased chance of undue pain or suffering to animal* *Wrong*

MEMORANDUM OF INTERVIEW
Thomas A. Ellestad, Co-Manager, Secretary
Vern's Moses Lake Meats, Moses Lake, WA

December 29, 2003

Page 2 of 5

(4) The firm has a company policy for receiving of animals from any hauler. Haulers sign a statement, "IN ORDER TO COMPLY WITH VERN'S MEAT POLICY ON HUMANE HANDLING OF LIVESTOCK, I AGREE THAT I WILL NOT HAUL LIVESTOCK TO THEM TO SLAUGHTER THAT HAVE BEEN LOADED AS 'DOWNERS' (LOADED ON THE TRAILER BY MECHANICAL MEANS)". Animals that have to be mechanically loaded unto the trailer are referred to by Est. 9318 management as "downers". Est. 9318 does not require the form to be signed upon each delivery only once in the case of a regular customer. If it is the opinion of Est. 9318 Management that any animal on any hauler's trailer fits their definition of a downer, they will refuse to unload the animal even if there is a "no downer" statement signed by the hauler. Animals that are unloaded and fit the definition of a downer are not allowed to be reloaded onto the trailer. They are identified and condemned. Again, all of the "back door" animals are brain stem tested. *Feb 18-0*
By plant

The whole carcasses of dead animals or whole carcasses of animals condemned on ante mortem are held on site until picked up by a Baker Commodities, Tukwila, WA. The carcasses are denatured. The whole animal pick up is by a different vehicle than the one used to haul the every day inedible material that is a result of the slaughter or processing operations. Baker Commodities does not leave an individual slip for each pick up of whole animals or the daily inedible materials. Baker Commodities does bill Est. 9318 on a monthly basis. On that bill a weight for each pick up is noted. There is no reference on the bill as to whole animal weights as a category. The categories are Raw Material and Mixed Material. T. Ellestad advised that the firm does not bring in the whole carcasses of animals after operating hours for skinning or any other reason. These carcasses are left intact for pick up. *Spokane*

The slaughter procedure continues in a traditional fashion. Several items are noteworthy. The brisket is opened with a cleaver not a saw. The cleaver is rinsed and dipped into a sterilizer after each use. Brains and lips are not saved as human food in the slaughter process. The firm has a written procedure that states, "The beef head washer is to flush out the brain with water pressure while in the head cabinet". Cranial material is periodically picked up off the floor and out of the cabinet and placed down the inedible chute. This procedure was observed by the EIA on 12/24/2003.

The animals are split with a saw. This saw has warm water entering the rear chamber which has the effect of rinsing the blade. The firm follows a protocol for sanitizing the saw. If an animal is US Suspect or is a condemned animal, the splitting operation ceases after the animal is split. The saw is opened, rinsed with hot water, sprayed with a quaternary ammonia solution of 200ppm, rinsed, and closed. This procedure does not happen between each animal. On the day in question #66435 (BSE positive) was split. Number 66436 was split without cleaning of the saw. Number 66437 was a US Suspect. The splitting operation was halted until the cleaning operation was conducted. EIA observed the procedure on 12/24/2003.

MEMORANDUM OF INTERVIEW
Thomas A. Ellestad, Co-Manager, Secretary
Vern's Moses Lake Meats, Moses Lake, WA

December 29, 2003

Page 3 of 5

The firm does not have a written procedure for cleaning between slaughtering of different species of animals on the same day. The present cleaning protocol is one that was enforced years ago by the on site inspection staff. The slaughter floor is picked up and equipment to be used on the next species is cleaned. This procedure has been so ingrained into the firm's procedure that it continues to this day as an unwritten series of events. This protocol was instituted on 12/09/2003 (the day the cow positive for BSE was slaughtered). The procedure was conducted after the last bovine slaughtered and prior to the three lambs that were slaughtered on that date.

The firm does have a written procedure for removal of spinal cord tissue. The procedure states, "In the case of the spinal cord the beef washer is to remove it during the trim & wash process". The carcasses are then trimmed & washed which includes a flushing of the spinal cord canal. Once washed the carcasses are identified with a sequentially numbered company tag that come as four identically numbered tags. One of the four tags is applied to each the fore and the hind quarter areas of each side although the carcass remains in halves. The carcass halves are then pushed into the cooler to start the chilling process. The EIA observed this process in operation on 12/24/2003. The beef washer uses his meat hook to grab the spinal cord material. He then runs the hook along the canal. The beef washer uses a hose to flush the canal. The EIA also observed that the first two beef placed into the cooler had spinal cord material left in the canal. The EIA informed plant management that the beef washer was leaving spinal cord in the canal. T. Ellestad immediately informed the kill floor foreman of this finding. He instructed him to follow the written procedure to ensure proper removal of the spinal cord material from the canal.

On 12/09/2003 a Holstein cow was received for slaughter at Vern's Moses Lake meats. She was not able to walk to the knocking box. She was then treated as a "back door" animal. She was slaughtered and a brain stem sample collected and identified. This sample was part of a larger group that was picked up by Dr. Rory Meyer, USDA APHIS or Dr. Lee Williams, Washington State APHIS. The samples were then sent to Ames Iowa. The cow in question received USDA ante and post mortem inspection. The Holstein cow carcass was identified with a company tag # 66435. On or about 12/23/2003 Vern's Moses Lake Meats received notification that the results of the brain stem test was positive for this particular animal.

The carcass with tag # 66435 was sent to Midway Meats, Centralia, WA as part of a load of 42 carcasses on a Vern's vehicle. Invoice # 40204 dated 12/10/2003 was made out. The load was placed onto the Est. 9318 vehicle on the 10th but delivered on the 11th. The load out sheet shows that 43 animals were loaded. T. Ellestad advised the EIA that the animal with company tag # 66479 was erroneously placed onto the load out sheet. This animal never left the establishment. Number 66479 was not a suspect animal nor was it tested for BSE. T. Ellestad informed Mr. Bill Sexsmith of the upcoming recall on

MEMORANDUM OF INTERVIEW

December 29, 2003

Thomas A. Ellestad, Co-Manager, Secretary
Vern's Moses Lake Meats, Moses Lake, WA

Page 4 of 5

12/23/2003 in a telephone conversation. A letter was sent on or about 12/24/2003. The firm shipped out no carcasses on 12/12/2003.

As part of the slaughter process, the firm does save beef heads (with & without tongues attached), tongues, tails, cheek meat, hearts, and livers. These items are sold as both retail and wholesale items. The boxes of these products are hand marked with the pack date. This date may not be the slaughter date. T. Ellestad advised the EIA that on 12/09/2003 there were no whole heads saved only the cheek meat. The firm does not save dairy cattle heads and the two steers slaughtered were too small to provide a head suitable for sale.

The firm does not apply the pack date to any invoice that is made out for the sale of these items. The items, therefore, lose their pack date identity. Est. 9318 voluntarily recalled all of the above mentioned items produced from 12/09/2003 to 12/23/2003. Any remaining products mentioned above that were on site with pack dates of 12/09-23/2003 were tagged by the on site USDA staff awaiting disposition.

EIA was given a list of eleven customers that purchased the items listed above as wholesale sales. The firm contacted ten of the eleven wholesale accounts on 12/24 & 26/2003. The last account was Tacos El Mexicano, Moses Lake, WA. Plant management attempted to call and then physically contact the firm. There was a sign on the door that stated that the firm would be closed from 12/24 to 12/31/2003. Est. 9318 will contact this account after they open on January 1, 2004. Est. 9318 did mail a notice of recall to the firm on 12/24/2003. Some of the other firms contacted have only Hispanic personnel working for them. Est. 9318 utilized an interpreter to conduct the initial recall contact. T. Ellestad has assured the EIA that there are English speaking personnel at the accounts and that the accounts will understand the meaning of the recall letter sent to them.

Invoice #40169 dated 12/17/03 has quantity 100 Beef Heads. Under weight it states 60. These forms also serve as order forms for accounts. This invoice is reflecting that 100 beef heads were ordered but only 60 @ \$15.00 each were delivered. — we were out

The retail sales invoices observed by the EIA do not contain sufficient information to assist in the recalling of the products sold. The retail invoices may not contain the name, address or phone number of the purchaser. Est. 9318 placed a sign in their retail area that informed retail customers they could return those products listed above that were purchased between 12/09-23/2003 to the firm.

On 12/09/2003 Est. 9318 slaughtered three lambs. These lambs were then invoiced out to Cheryl Sorenson, no address or phone number on the invoice # 40191 dated 12/10/2003. A pen card from the USDA staff had Ephrata, WA written on it. Est. 9318 management called numerous possible contacts in the Moses Lake and Ephrata areas to attempt

MEMORANDUM OF INTERVIEW

December 29, 2003

Thomas A. Ellestad, Co-Manager, Secretary
Vern's Moses Lake Meats, Moses Lake, WA

Page 5 of 5

contact. Leonard Ramsey, OPEER Supervisory PI, attempted an on line search for similar names and was not successful in contacting the individual.

The EIA discussed the disposal of the materials returned to the firm as a result of this event. EIA advised that disposition would be up to the firm and higher USDA authority. EIA was asked if the materials could be put into a sanitary land fill because Baker Commodities was not accepting material for rendering at this time. EIA advised that the firm needed to get permission from the local authorities for that to happen. EIA went over denaturing of the product(s) sent to a land fill in great detail. EIA specifically addressed that they use of an agent such as charcoal or liquid charcoal was not acceptable.

In the presence of Donald S. West, USDA, CSI, the EIA went over the information needed to track the returned product. Name, amount, date, type of product, disposition of product were well explained to the firm.

Est. 9318 does not Export. The firm is not involved in contracts with the Department of Defence.

Est. 9318 is currently in the process of reassessing their SSOP & HACCP plans in light of the findings of this event. *4 plant procedures*

See ATTatchal sheet

1-06-04

TO: MARTIN E. MARIN (EIA) USOA

Upon reading through your interview memorandum there are several changes that come to mind after a quick review by me.

- ① AS I remember Tag #6810 was a fairly large plastic ear tag - NOT a state back tag.
- ② The Brain stem sample was NOT taken because this animal was non-ambulatory. we had explained to Dr Williams & Dr. Meyer that we did not process traditional downer animals & that we would not accept the contract they presented us listing downers as the animals to be tested. I explained our position to them (in effect since Feb-2003). & requested that they change the contract wording. They did understand that many of the samples taken would be from animals that were ambulatory & NOT USOA suspects. & they agreed to this.
- ③ we do NOT define "back door" as an animal that CAN NOT walk up the incline.
- ④ condemned by plant.

we may see other discrepancies upon a more detailed review

VERNS MOSES LAKE MEATS INC.

P O BOX 1618 Moses Lake, WA 98837
(509) 765-5671 phone (509) 766-0304 fax



To Mr. Bill Smith; USDA: Deputy Administrator FSIS
Dr Garry L. McKee: FSIS Administrator
Dr Ron DeHaven USDA Chief Veterinary Medical Officer
Dr Ron Jones USDA Boulder District
Dr James Adams USDA Boulder District

It has been humbling and rewarding to work with and co-operate with almost everyone in the USDA organization to bring about a prompt recall and protection for the consumer as well as to do our part to keep consumer confidence up for the Meat Industry and keep confidence up for USDA.

In my phone conversation with Mr. Bill Smith today Jan. 07, 2004, Mr Smith asked me for my written opinion on why we are not responsible for all co-mingled recalled product "So that I will know what legal administrative action to take if you refuse to take it back."

Mr. Smith's call and my perception of his attitude have caught me completely by surprise. I feel that I feel that I am being forced to make a knee-jerk response to something that I have been seeking guidance from Boulder District Office for most of a week now and something of such importance to many people that it deserves much more than a knee-jerk response.

So my opinionated response I am now offering will not be complete and well thought out but it will be prompt as requested by Mr. Smith.

WE were solicited, hired and trained by USDA (Dr Rory Meyers) and Washington State Department of Agriculture (Dr Lee Williams) to Collect Brain tissue samples from certain animals slaughtered at our facility. I did ask them if we needed to indemnify ourselves by holding (retaining) the tested carcasses until tests results were obtained and I was told no. This was a USDA program from conception, not ours.

I understand that USDA is paying the producer (dairymen) fair market price for removing from commerce (recalling) total herds of livestock where there is only one animal in a good herd that is not identifiable and the complete herd needs to be destroyed (co-mingled product). I also understand that USDA is paying for the destroying and the final disposition of the product involved. We did have this one particular cow separately identified with a numbered tag on each quarter of carcass but went along with USDA and recalled the entire days kill and we did have identifying numbers on each quarter of each carcass when we sold it to Midway Meats. When Midway received this product it was separate and identifiable and fully inspected and passed by very qualified USDA staff. At this point Midway meats made a business decision to place this product with other fully inspected and passed by USDA product. If USDA feels that we are the culpable party, then why stop here rather than following the cow (this is a trailable cow) back to the US border and the USDA officials who let this cow enter the country. Let me make plain that I do not blame Canada for this problem; it is a problem equal to both countries.

For the above ramblings I do not feel that we are culpable for any co-mingled product and possibly for none of the product. Even though we doubt our fault (we did not adulterate or misbrand the

product). We felt that consumer protection was best served by an immediate voluntary recall by us. We did start the proceedings of a recall to Midway Meats about six hours before USDA was able to give us actual notification that this was a positive test for BSE. We have made every effort to cooperate with USDA, even to the point of doing things that were not needed for consumer protection but that USDA requested. We have made every effort to uphold USDA to the public as well as to the news media. However now that we have done all we could to protect the consumer in this incident we must look at trying to survive the politics of the issue. We wish to keep all of the controversial issues we can between USDA and industry out of the news and the political arena so that as an industry we can present a strong, united program to the public between industry and USDA and thus keep public confidence high, as it should be. These have been very trying, tense times for USDA, consumers, and industry. I am proud of the professionalism shown by USDA and industry representatives during the actual recall. As stated earlier in this note these are my quick thoughts and opinions as asked for. I anticipate your verbal and written response as soon as possible so that we can take appropriate action with recalled product as well as knowing if we need further legal, political and or public advise. I am aware that industry people have been asking for written information on this for some time now and that this is a difficult thing to come up with during these times.

Jan. 07, 2004

Sincerely and with the utmost respect,
Tom Ellestad, secretary
Vern's Moses Lake Meat Inc.

A handwritten signature in black ink, appearing to read "Tom Ellestad", with a long horizontal flourish extending to the right.

Yakima Incident Command Post
Washington State BSE Task Force
1603 East Yakima Avenue, Ranier Suite
Yakima, WA 98901
Main phone: 509-457-2124
FAX: 509-457-9843

**Yakima Incident
Command Post**

Fax

To: Tom EQUESTAD From: ROZZ MEYER
Fax: 509 766 0304 Pages: 1 + 3
Phone: Date: 1-8-03
Re: SAMPLES CC:

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

• Comments:

Tom,

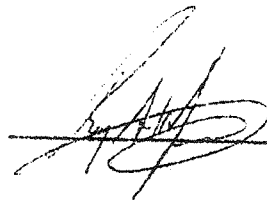
LIST OF SAMPLES SUBMITTED FOR THE MONTH
OF ~~FE~~ DEC TO FOLLOW. PLEASE SUBMIT AN INVOICE
AND WE'LL MAKE SURE YOU GET PAID

I FORWARDED OUR DISCUSSION ON TO MY AVID (DEBRICKER)
AND WE WILL TRY AND GET SOMETHING SET UP SOON
TO ACCOMMODATE BOTH PARTIES IN SAMPLE COLLECTIONS
NO PROMISES BUT LET'S WAIT AND SEE.

CALL ME IF YOU HAVE ANY QUESTIONS.

REGARDS

Rory



Total N	Sample #	Date Collected	Breed	Sex	Age	USDA Suspect Tag # ID #1	Back Tag ID #2	Bangle Tag ID #3	Metal Tag ID #4	Other ID #5	Test Result
1	1	2-Dec-03	HO	F	Adult			4740	91VUM6371	66344	Neg
2	2	2-Dec-03	HO	F	Adult			5230		66343	Neg
3	3	2-Dec-03	HO	F	Adult			3504	91VUN7714	66339	Neg
4	4	2-Dec-03	HO	F	Adult			5373		66338	Neg
5	5	2-Dec-03	HO	F	Adult			2084	91VVM0013	66337	Neg
6	6	2-Dec-03	HO	F	Adult			190		66336	No Result
7	7	2-Dec-03	HO	F	Adult			8408	91VWG2220	66335	Neg
8	8	2-Dec-03	HO	F	Adult			291		66334	Neg
9	9	2-Dec-03	HO	F	Adult			7962		66333	No Result
10	10	2-Dec-03	HO	F	Adult			250		66332	Neg
11	11	2-Dec-03	HO	F	Adult			1547	91V114486	66331	Neg
12	12	2-Dec-03	HO	F	Adult			2089		66330	Neg
13	13	2-Dec-03	HO	F	Adult					66291	Neg
14	14	2-Dec-03	HO	F	Adult					66290	Neg
15	15	2-Dec-03	HO	F	Adult			822		66289	Neg
16	16	2-Dec-03	HO	F	Adult			55		66288	Neg
17	1	5-Dec-03	HO	F	Adult			4161		66412	Neg
18	2	5-Dec-03	HO	F	Adult			5380	91VWD1383	66406	Neg
19	3	5-Dec-03	HO	F	Adult					66405	Neg
20	4	5-Dec-03	HO	F	Adult					66404	Neg
21	5	5-Dec-03	HO	F	Adult			2982	91VW73846	66403	Neg
22	6	5-Dec-03	HO	F	Adult			1937	91VW82492	66402	Neg
23	1	9-Dec-03	HO	F	Adult			6624		66441	Neg
24	2	9-Dec-03	HO	F	Adult			5147	91VVE0516	66440	Neg
25	3	9-Dec-03	HO	F	Adult			5449	91VXA1324	66439	Neg
26	4	9-Dec-03	HO	F	Adult			4985	91VVE7772	66438	Neg
27	5	9-Dec-03	HO	F	Adult				91VXF4942	66437	Neg
28	6	9-Dec-03	HO	F	Adult			7596		66436	Neg
29	7	9-Dec-03	HO	F	Adult			6810	9M61518	66435	Neg
30	8	9-Dec-03	HO	F	Adult			9303	4205	66434	Neg
31	9	9-Dec-03	HO	F	Adult					66432	Neg

32	1	10-Dec-03	HO	F	Adult	66470	Neg
33	2	10-Dec-03	HO	F	Adult	66459	Neg
34	3	10-Dec-03	HO	F	Adult	66468	Neg
35	4	10-Dec-03	HO	F	Adult	66467	Neg
36	5	10-Dec-03	HO	F	Adult	66466	Neg
37	6	10-Dec-03	HO	F	Adult	66465	Neg
38	7	10-Dec-03	HO	F	Adult	66464	Neg
39	1	12-Dec-03					Neg
40	2	12-Dec-03					Neg
41	3	12-Dec-03					Neg
42	4	12-Dec-03					Neg
43	5	12-Dec-03					Neg
44	6	12-Dec-03					Neg
45	7	12-Dec-03					Neg
46	8	12-Dec-03					Neg
47	2	16-Dec-03	HO	F	Adult	66518	Neg
48	3	16-Dec-03	HO	F	Adult	66517	Neg
49	4	16-Dec-03	HO	F	Adult	66516	Neg
50	5	16-Dec-03	HO	F	Adult	66515	Neg
51	6	16-Dec-03	HO	F	Adult	66514	Neg
52	7	16-Dec-03	HO	F	Adult	66513	Neg
53	8	16-Dec-03	HO	F	Adult	66512	Neg
54	9	16-Dec-03	HO	F	Adult	66511	Neg
55	10	16-Dec-03	HO	F	Adult	66510	Neg
56	11	16-Dec-03	HO	F	Adult	66509	Neg
57	12	16-Dec-03	HO	F	Adult	66508	Neg
58	13	16-Dec-03	HO	F	Adult	66507	Neg
59	14	16-Dec-03	HO	F	Adult	66506	Neg
60	15	16-Dec-03	HO	F	Adult	66505	Neg
61	16	16-Dec-03	HO	F	Adult	66504	Neg
62	1	17-Dec-03	HO	F	Adult	66529	Neg
63	2	17-Dec-03	HO	F	Adult	66533	Neg
64	3	17-Dec-03	HO	F	Adult	66538	Neg
65	4	17-Dec-03	HO	F	Adult	66537	Neg

66	5	17-Dec-03	HO	F	Adult	8473	91VON3348	66536	Neg
67	6	17-Dec-03	HO	F	Adult	1429		66535	Neg
68	7	17-Dec-03	HO	F	Adult		91VXF4078	66534	No Result
69	8	17-Dec-03	HO	F	Adult	6117	91VXF4222	66531	Neg
70	9	17-Dec-03	HO	F	Adult	6245		66530	Neg
71	10	17-Dec-03	HO	F	Adult	3789	91VVF396	66526	Neg
72	11	17-Dec-03	HO	F	Adult	1271	91VPD4737	66525	Neg
73	12	17-Dec-03	HO	F	Adult	3145	91VJY9167	66524	Neg
74	13	17-Dec-03	HO	F	Adult	3170		66523	Neg
75	1	19-Dec-03	HO	F	Adult			66597	Neg
76	2	19-Dec-03	HO	F	Adult			66593	Neg
77	3	19-Dec-03	HO	F	Adult			66591	Neg
78	4	19-Dec-03	HO	F	Adult	4073		66590	Neg
79	5	19-Dec-03	HO	F	Adult	4451	445	66589	Neg
80	6	19-Dec-03	HO	F	Adult	4218	91VVF8748	66588	Neg
81	7	19-Dec-03	HO	F	Adult			66587	Neg
82	1								
83	2								
84	3								
85	4								
86	5								
87	6								
88	7								
89	8								
90	9								

Samples 1-9 were collected at Vern's Meats on 12-23-03 and set aside for processing by APHIS/WSDA personnel. Due to the circumstances surrounding a current investigation at the time, samples were not picked up and processed by APHIS/WSDA personnel in time to maintain sample integrity. Tom Ellestad will be credited for samples taken at his plant for this work.

Rory Meyer, DVM
Veterinary Medical Officer
USDA APHIS VS - WA

PLEASE TYPE OR PRINT CLEARLY

**U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
VETERINARY SERVICES**

Exhibit 15
Page 1 of 1

**RECALLED MEAT PRODUCTS AS A RESULT OF BOVINE SPONGEFORM
ENCEPHALOPATHY**

13. Owner-Claimant Statement

I, as representative of _____, known as the 'Recipient' in the remainder of this statement, certify the following:

1. Recipient understands that the United States Department of Agriculture (USDA) is providing a one-time payment of _____ to compensate for claims arising out of the products recalled by the Food Safety and Inspection Service (FSIS) because of bovine spongiform encephalopathy (BSE). Recipient further acknowledges that this payment is intended to compensate the Recipient and the Recipient's customers for losses relating to or arising out of the destruction of products recalled because of BSE.
2. Recipient is satisfied with the determination of the value of the recalled products and will not seek additional payment from the United States.
3. Recipient agrees to disburse appropriate payment to all customers who possessed or possessed products recalled because of BSE. USDA bears no responsibility or liability regarding distribution of the compensation to Recipient's customers. Recipient agrees to hold the United States and its employees and agents harmless from any and all claims relating to or arising out of the recall and distribution of compensation to Recipient's customers.
4. Recipient, being compensated for losses arising out of or related to the destruction of products implicated by the FSIS recall, hereby releases and agrees to hold harmless the United States and its employees and agents harmless from any and all claims relating to or arising out of the recall.
5. I certify that the recalled product has been destroyed as follows:

Signature _____ Date _____

Title _____

USDA is authorized to pay claims arising out of the destruction of animals or products consistent with the purpose of the Animal Health Protection Act (7 USC 8301).

*scan in adobe
e-mail format*

VERN'S MOSES LAKE MEATS, INC.

P.O. BOX 1618



2721 W. PENINSULA 765-5671
MOSES LAKE, WASHINGTON 98837



Exhibit 16
Page 1 of 2

To USDA/FSIS/BOULDER DISTRICT
ATTENTION;

DR. RON JONES;

cc; Mr Bill Smith, Dr Garry McKee, Dr Ron DeHaven, Dr James Adams

Dear Sir: We are pleased to see that USDA has taken prompt action with new regulations designed to further protect the consumer and extend consumer confidence in beef in the aftermath of the BSE positive cow from 12-09-03.

Until these new regulations we had modified our plant procedures based on information received from the BSE division, Food Standards Agency, London, courtesy of Sir Chris Walding. We appreciated his prompt response. Now that we have USDA regulations to follow it will should be better. We will continue to be pro-active in meeting the most recent USDA regulations and our desire is that we will be able to continue to co-operate with USDA in BSE testing as we have in the past, with a few clarifications from USDA for us if possible. These are questions that our on site USDA staff were unable to give us answers for.

1) Specific Risk Materials(Skulls, Brain, Vertebral column,.etc): May they go into traditional, inedible rendering service pickup or do they need to go to a lined Land-fill or incinerator and if USDA says they will go into rendering do you know if FDA will agree. Also on the small intestine, we do not save this, it has always been left with the paunch, spleen, lungs and etc and gone into rendering. Does the small intestine need to be separated and handled separate from the rest of the intestines(guts).

2) Buffalo: We are slaughtering several buffalo on Monday, 1/12/04. Most of the buffalo producers do not get the maximum growth desired until 30 months of age or after. I realize that buffalo are bovine but would appreciate USDA requirements and/or recommendations on the handling of USDA inspected buffalo.

3) What is the official position on beef over 30 months of age that is in freezers and commerce that was processed under regulations that were in effect on 1/09/04 and prior to that date.

4) While we intend to co-operate as much as possible with future BSE Testing it appears that we do not have the financial ability to perform the rendering services that are being required by USDA as per my phone conversation with Dr Jones. If I understood Dr Jones correctly , any animal that is condemned and tested for BSE is my financial responsibility to incinerate or haul to a lined land fill, or hold the carcass and parts there-of until test results are in. Now I personally feel that each and every beef should be handled under USDA authority if there is any doubt about its health, the fact is that if small USDA plants must be financially responsible to run a rendering service for USDA then those plants will have to discourage those animals from

VERN'S MOSES LAKE MEATS, INC.

P.O. BOX 1618



2721 W. PENINSULA 765-5671
MOSES LAKE, WASHINGTON 98837



Exhibit 16
Page 2 of 2

comming to their facility and this will not benefit the consumer. While I feel it is important that it is very important for these animals to come to USDA plants I do also feel that USDA policy as explained to me is to strongly discourage plants who wish to be co-operative from being able to do so. I am not trying to cause trouble but most sincerely would appreciate your written response as soon as possible

1-10-04
Sincerely, with respect
Tom Ellestad, secretary

A handwritten signature in cursive script, appearing to read "Tom Ellestad", written over the typed name.